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**GERMANTOWN BOARD OF ZONING APPEALS
VARIANCE REQUEST**

(Use only if a variance is requested)

As stated in the Zoning Ordinance for the City of Germantown, the Board of Zoning Appeals shall have the following powers: (Section 23-49)

Where, by reason of *exceptional narrowness, shallowness or shape* of a specific piece of property or by reason of *exceptional topographic conditions* or *other extraordinary and exceptional situation or condition of such piece of property*, the strict application of any provision of this chapter would result in *peculiar and exceptional practical difficulties* to or *undue hardship upon the owner* of such property, to authorize upon appeal relating to the property a variance from such strict application so as to relieve such difficulties or hardship, provided such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of this chapter. *Financial disadvantage to the property owner is not sufficient proof of hardship.* [Emphasis added]

This application for a variance is based on the condition(s) checked below:

1. **Condition of property:**

Exceptional narrowness, shallowness, or shape _____
(Describe in the space below if checked)

Exceptional topographic conditions _____
(Describe in the space below if checked)

Other extraordinary and exceptional situation
or condition of the piece of property _____
(Describe in the space below if checked)

2. **Resulting in:**

Peculiar and exceptional practical difficulties _____
(Describe in the space below if checked)

Undue hardship upon the owner _____
(Describe in the space below if checked)

GERMANTOWN BOARD OF ZONING APPEALS
CHECKLIST OF REQUIRED MATERIALS (to be verified by planning staff)

☐ 1. The Official Application Form

One (1) complete copy written clearly or typed.

☐ 2. Site Plan

Requirements for a Variance Request:

One print or copy, as applicable, drawn to scale, with all relevant dimensions marked. Sixteen prints of copies if plans are on over-sized paper. The following information must be shown on the site plan (if applicable to the request):

- Existing roads
- Building setback lines
- Location of all structures, existing and proposed
- Location of all easements
- Proposed curb cuts, drives, and parking areas
- Landscaped buffer areas and planting screens to protect adjoining property
- Proposed exterior lighting
- Other information as determined by staff

Requirements for a Use on Appeal Request:

Prior to the establishment of any use permitted on approval of the Board of Zoning Appeals, the applicant shall submit a site plan showing the development concept for the tract. The site plan shall:

- a. Be drawn to a scale of one inch equals 100 feet; and
- b. Include, at a minimum, the following:
 1. Existing roads.
 2. The zoning of adjacent tracts.
 3. Proposed curb cuts, drives, parking areas and drainage.
 4. The names of the owners of all adjoining lots or tracts.
 5. Building lines and the location of all structures.
 6. Landscaped buffer areas and planting screens to protect adjoining property.
 7. Proposed lighting and measures taken to prevent its adverse impact on adjoining property.
- c. Provide additional information on the proposed use, as determined by staff.

Note: Applicants for a variance on a single-family residential property may substitute a copy of a signed and sealed lot survey for the site plan. Proposed items such as swimming pools or accessory buildings that are associated with the request must be drawn to scale and labeled on the survey.

☐ 3. List of Names and Addresses

One (1) complete list of names and mailing addresses of all property owners within the 300-foot or 500-foot radius of the subject property, written neatly or typed on gummed labels, including zip code.

☐ 4. Fees *

All checks should be made payable to the City of Germantown. *All fees are non-refundable.*

Request	Fee
Variance:	
<i>Residential</i>	\$150.00
<i>Non Residential</i>	\$200.00
Use on Appeal	\$300.00

** All fees effective July 1, 2009*

☐ 5. Correspondence from building official or code enforcement officer (if applicable).

One (1) copy of any applicable rejection slip, stop work order, or other correspondence received from the Memphis & Shelby County Office of Construction Code Enforcement or the City of Germantown Office of Code Enforcement.

☐ 6. Ownership Shares in Project (if applicable).

If the owner of the land which is the subject of this Application ("Owner") is a for-profit entity, i.e. general partnership, limited partnership, corporation, limited liability company, R.E.I.T., a trust, or any other form of for-profit business entity or a non-profit entity, the authorized representative of the Owner must list below the respective names and business or home addresses of all persons or entities which own 10% or more of the ownership interests in the Owner. (If another business entity owns 10% or more of the ownership interests in the Owner, all persons owning a 10% or more interest in such last mentioned entity must be identified by name and business or home address.) (If a trust owns a 10% or more interest in the Owner, all beneficiaries of 10% or more of the trust assets must be identified by name and business or home address.) The amount of ownership interest does not have to be disclosed.

Owner / President or Equivalent: _____

Persons or Entities* Owning
10% or More of the Ownership
Interests of the Owner:

Name	Business <u>or</u> Home Address
_____	_____
_____	_____

*See language in parenthesis above.

☐ 7. Certification

Sign the following statement and indicate owner, agent or attorney.

I, _____, (owner, agent or attorney), attest to the best of my knowledge that the items submitted above are correct and accurate.

**City of Germantown
2009 Deadlines and Meeting Dates**

BZA Submittal Deadline	BZA Meeting
12/12/2008	1/13/2009
1/16/2009	2/10/2009
2/13/2009	3/10/2009
3/13/2009	4/14/2009
4/17/2009	5/12/2009
5/15/2009	6/9/2009
6/12/2009	7/14/2009
7/17/2009	8/11/2009
8/14/2009	9/8/2009
9/11/2009	10/13/2009
10/16/2009	11/10/2009
11/13/2009	12/8/2009
12/11/2009	1/12/2010

Meeting dates, times, meeting place and application deadlines are subject to change. For additional information, applications, review fees, or to confirm deadlines and meeting dates, please contact the Planning Division at (901) 757-7281.

1. Applications shall be submitted and delivered to the Planning Division located at 1920 S. Germantown Road by 12:00 noon the day of the deadline.
2. The BZA meetings are held at 6:00 pm in the Municipal Center Council Chambers at 1930 S. Germantown Road.



CITY OF GERMANTOWN TENNESSEE

1930 South Germantown Road • Germantown, Tennessee 38138-2815
Phone (901) 757-7200 Fax (901) 757-7292 www.germantown-tn.gov

GERMANTOWN BOARD OF ZONING APPEALS APPLICATION INSTRUCTIONS

BEFORE SUBMITTING AN APPLICATION

In order to substantiate your request for a variance, you should be prepared to show how your property meets the legal test for relief:

Where, by reason of

1. Exceptional narrowness, shallowness or shape of a specific piece of property OR
2. By reason of exceptional topographic conditions of a specific piece of property OR
3. Other extraordinary and exceptional situation or condition of such piece of property,

the strict application of any regulation would result in

1. Peculiar and exceptional practical difficulties to OR
2. Undue hardship upon the owner of such property,

the Board of Zoning Appeals (BZA) may authorize a variance from such strict application so as to relieve such difficulties or hardship.

The request should also adhere to the following:

1. The property cannot be put to a reasonable use without the variance;
2. The difficulty must be unique to your property and not generally shared by others in the same zoning district;
3. There must be no reasonable, legal alternative that would accomplish your purpose;
4. The difficulty is not self-created, i.e. you or the previous property owners did not create the present difficulty or problem and
5. The variance will not adversely affect the public health, safety and welfare.

The burden of demonstrating that the above conditions exist on your property is placed on the applicant. Therefore, it is necessary for the applicant, or his designated representative, to be present at the BZA meeting.

While it is not required, it is always helpful if an applicant for a variance meets and discusses their request with their neighbors. This can often alleviate any concerns prior to the meeting. The City of Germantown is required by law to notify all property owners within 300 feet, or 500 feet if a use on appeal has been requested, of your property of a variance request. This is not intended to discourage you from filing an application for a variance. That is your right and prerogative. This is intended to provide you with information and direction learned from the experiences of others who have requested variances.

Applications submitted to the BZA are not automatically approved. Each application is individually reviewed. The BZA is required by law to support its decisions with evidence of "Peculiar and Exceptional Practical Difficulty" or "Undue Hardship". If the evidence is not shown, the BZA may not grant or approve the variance.

**GERMANTOWN BOARD OF ZONING APPEALS
TIP SHEET**

TIP #1

Before Filing a Variance – Do You Really Need One?

- Understand why your permit was rejected?
- Can you live within the Ordinance?
- Do you really “need” a variance, or just want one?
- Can you wait? (A variance application can take up to 30 days or more.)

TIP #2

Before Filing a Variance – Do Your Homework

- Talk to the Code Compliance and Planning Divisions.
- Talk to your neighbors.
- Understand what the legal test is for BZA relief.
- Burden of proof rests with YOU. You must submit sufficient testimony and evidence to meet the legal test for relief.

TIP #3

When You File Your Variance

- Write legibly or type your application.
- Complete the application fully.
- State specifically why you need the variance, what your undue hardship or peculiar and exceptional practical difficulty is and why strict application of the Code of Ordinances unfairly affects you.
- Attach all relevant documentation to your application.

TIP #4

After Filing, but Before the Meeting

- Individual members of the BZA will probably inspect your site before the meeting.
- Talk to your neighbors about your variance / get their support and answer any questions that they might have.
- If you get your neighbor’s support, have them make a brief, concise statement at the meeting or in writing.
- If you expect opposition, contact the Planning Division a day or two before the meeting to review any written opposition on file.
- Be prepared to deal with any written objections at the meeting.
- Consider modifying your variance request to meet objections.

TIP #5

At the Board of Zoning Appeals Meeting

- Examine the agenda. If there are similar requests to yours, listen to how the Board responds to those cases.
- Look around you. If you see neighbors, try to determine if they are opposed and if so, why? Can you enlist their support because they do not understand what you are trying to do?
- Listen to the Board. Both their discussion and questions may be an attempt to steer you toward a compromise. We would not suggest taking an all or nothing position.

TIP #6

During Your Presentation

- Once your case has been opened for “anyone wishing to speak in favor of this appeal,” you should rise and present your case.
- Convincingly communicate that your request meets the requirements necessary to grants a variance (see **TIP #2**).